

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 584
Case No. 87-37C
(PUD & Map Amendment @ Georgia & Eastern Avenues, N.W.)
August 8, 1988

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on March 28, April 21, and May 16, 1988. At those hearing sessions, the Zoning Commission considered an application from the Festival Development Corporation, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, for consolidated review and approval of a Planned Unit Development (PUD) and an amendment to the Zoning Map. The public hearing was conducted in accordance with the provisions of Chapter 30 of that title, the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The original application, which was filed on December 15, 1987, requested consolidated review and approval of a PUD and map amendment from R-1-B to C-2-A or, in the alternative, from R-1-B and C-2-A to C-2-B, for lots 8-13, 809-813, and 816, and parcels no. 91/159, 91/160, 91/169, 91/171, 92/172, and 91/173, in Square 2960 located at 7812 Georgia Avenue, N.W.
2. The original application was for construction of two mixed-use buildings which provided for 228 residential rental units (188 units in the main building) with a 3.5 floor area ratio (FAR). Those plans provided for a nine (9) story main building, 89 feet high only along Georgia Avenue. The commercial space consisted of over 92,540 square feet of gross floor area, plus 20,000 square feet of cellar floor area. The project provided 450 parking spaces (408 underground and 42 on the surface), with vehicular access from Eastern Avenue, only.
3. Subsequently, the applicant developed an alternative proposal which affected the height of the project, FAR and the number of residential units. The modified PUD

proposal would contain 198 residential units with a 3.21 FAR. The main building would remain at nine (9) stories at Georgia Avenue, but the building would be terraced back toward the residential area. The rear elevation would be reduced to 53 feet in height. Parking would remain at 450 parking spaces.

4. Both the original proposal and the alternate proposal were included in the notice of public hearing for consideration by the Zoning Commission.
5. On March 28, 1988, at the public hearing, a second revised proposal was presented to the Zoning Commission. The applicant requested that the Zoning Commission not consider the two original proposals. The second revised proposal is as follows:

Consistent with the previous proposals, the proposed project will consist of two separate mixed use retail and residential buildings at the intersection of Georgia and Eastern Avenues. The second building is to be situated west of the main building along Eastern Avenue. The height of the main building along Georgia Avenue has been reduced from 89 feet to 65 feet and terraces down toward the adjacent residential areas to a height of 47 feet. The second building remains at 60 feet in height. The FAR has been reduced from 3.27 to 2.95. The number of apartments has been reduced to approximately 170 units. The project is for 92,540 gross square feet of commercial space. In addition, there is 20,000 square feet of commercial space in the cellar, for a total commercial space of 112,540 of this total, 27,000 square feet of the commercial space will be devoted to office. The remaining 83,540 square feet will be devoted to retail use. Of the 2.95 FAR of the project, 1.90 FAR is for residential, with the remaining 1.05 FAR devoted to commercial. The project will have 403 parking spaces and a lot occupancy of 39 percent.

6. The PUD site is located in the Shepherd Park area of the city. The site is generally bounded by Eastern Avenue to the north, Georgia Avenue and Alaska Avenue to the east, and Kalmia Road to the south, and west, across an alley, is 12th Street, N.W.
7. The total site area is approximately 87,639 square feet or approximately two acres in size. The site is presently occupied by retail buildings along Eastern, Georgia and Alaska Avenues, and a surface parking lot, which will be removed in connection with the construction of the project. In addition, the applicant is proposing to close an alley, pursuant to S.O. 87-273.

8. The applicant has submitted a request for an amendment to the Zoning Map from C-2-A and R-1-B to C-2-A, for the subject site and alley to be closed. The applicant has dropped its alternative request for rezoning to C-2-B.
9. The C-2-A District permits matter-of-right low and medium density development, including office, retail and all types of residential uses to a maximum FAR of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of 50 feet and a maximum lot occupancy of 60 percent for residential uses.
10. The R-1-B District permits low density single-family dwellings and other appropriate uses to a maximum height of 40 feet (3 stories), a minimum lot width of 50 feet, a minimum lot area of 5,000 square feet, and a maximum lot occupancy of 40 percent for residential uses (60 percent for other structures).
11. Under the PUD process of the Zoning Reulations, Chapter 24 of 11 DCMR, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above.
12. The Generalized Land Use Element Map of the Comprehensive Plan for the National Capital shows the area of the subject PUD in the mixed use moderate density commercial and moderate density residential category. The site is also classified as a "new or upgraded multi-neighborhood center" on the Generalized Commercial and PTE Land Use Map.
13. The zoning pattern in the area includes: to the west, the R-1-B District; to the south, the R-1-B and R-2 Districts; to the east across Georgia Avenue and south along Georgia Avenue, the C-2-A District; further east beyond the C-2-A District, the R-5-A and R-2 Districts; and to the north, Silver Spring, Maryland.
14. The vicinity around the subject site is characterized by a variety of uses. The commercial area includes the upper Georgia Avenue commercial area and extends into Silver Spring, Maryland.
15. To the north of the site across Eastern Avenue, in Maryland, is a small commercial strip of retail stores along Eastern and Georgia Avenues. Across Georgia Avenue from the subject property is the vacant Shepherd Park Restaurant, a Roy Rogers Family Restaurant, and a small strip commercial shopping center. South and west of the proposed project are a series of detached single

family houses along Kalmia Road, with single family houses also to the west of the site along 12th Street.

16. The site circulation scheme allows cars using underground parking under either the main building or small building to enter and exit from the project through the west entrance/exit along Eastern Avenue. Trucks and cars using surface parking will enter the project from the west entrance, but will exit from the east exit along Eastern Avenue. Access to the project from the alley behind 12th Street or from Kalmia Road is not permitted. Eastern Avenue remains the only vehicular access point to the project.
17. The applicant, through testimony presented at the public hearing, indicated that the primary purposes of the project are to provide housing opportunities, to provide an aesthetic "Gateway" to the District of Columbia at an important arterial entrance to the city, and to assist in the revitalization of the area. To achieve these purposes, the proposed PUD has been carefully designed to achieve the following basic objectives:
 - a. Provide new rental housing development in an appropriate location, consistent with city goals;
 - b. Develop a mixed use building of superior architectural design that will enhance and complement the character of the neighborhood and provide an appropriate Gateway entrance into the city along Georgia Avenue;
 - c. Upgrade an underutilized site, consisting of a cluster of unattractive commercial buildings, at an important location into a new mixed use complex that is predominately residential in character;
 - d. Provide an ideal development of appropriate use and density for such a prime location, consistent with the goals and objectives of the Comprehensive Plan;
 - e. Enhance the character of the neighborhood and stabilize property values;
 - f. Provide a project that will facilitate the utilization of mass transit by providing bus service to the adjacent metro station(s), while providing residential parking on a 1:1 basis which is twice what is required by the Zoning Regulations;
 - g. Design the project in a manner that will prevent

any adverse impact on existing traffic conditions through a careful analysis of existing traffic conditions and the potential traffic and parking impacts of the proposed development; and

- h. Maximize the achievement of the Planned Unit Development goals by providing public benefits that would not occur under a matter-of-right project.
18. The applicant, through testimony presented at the public hearing, indicated that the District of Columbia and the neighborhood will realize significant public benefits from the proposed PUD. There are a number of special amenities within the project including the following:
- a. The provision of a significant amount of new rental housing. This commitment to provide housing will address the City's interest in preventing the erosion of the housing stock;
 - b. Stabilization of the Georgia Avenue corridor through provision of an upgraded multi-neighborhood mixed use project at an important Gateway location, as called for by the Comprehensive Plan;
 - c. A transportation management plan, involving a coordinated strategy to reduce the traffic impact of the project on the neighborhood streets and the encouragement of mass transportation;
 - d. A commitment to seek service-oriented retail establishments as tenants in the building and work with these businesses to locate in the new building. The applicant has been and will continue to meet and work with area citizens;
 - e. Development of a project of superior design that will include a significant residential, retail, and office component and provide an appropriate identity for this specific geographic corner which is a gateway to the District, while being sympathetic to the adjacent commercial and residential areas;
 - f. Improvements to public space surrounding the building; and
 - h. Economic benefits to the City and to city residents through:
 - (1) Increased real estate tax revenues;

- (2) Commitment to jobs for minorities in the construction of the project through the Minority Business Opportunity Commission;
 - (3) Increased patronage of surrounding neighborhood shops and businesses; and
 - (4) First source employment program for construction jobs.
19. The proposed project meets the standards of Chapter 24 of the Zoning Regulations, related to PUD, except as specified below. The site area is approximately 87,639 square feet in size, which exceeds the minimum area requirement of the 15,000 square feet for sites located in commercially zoned districts. The FAR for the project is 2.95. An FAR guideline of 3.0 is provided for the C-2-A District under the PUD guidelines contained in Chapter 24 of the Zoning Regulations. The proposed height of 65 feet is consistent with the PUD guideline for the C-2-A District (65 feet).
20. The applicant has presented to the Zoning Commission the technical difficulties to the project resulting from a 65 foot height. An alternative 69 foot main building has been presented to the Commission for its consideration. The 69 foot tall alternative scheme would exceed the PUD guidelines for the C-2-A District. Under Section 2403.4 of the Zoning Regulations, to exceed the height guidelines, the applicant must justify the public benefits resulting from the additional height.
21. The applicant's expert land planner has presented evidence that the additional height would resolve technical and practical problems creating by reducing the height of the main building from 89 feet to 65 feet. The land planner testified that the 4 foot increase in height would result in an imperceptible change in the visual elevation of the project, while resolving space and design problems for the actual component of the project.
22. Beginning in December of 1987, the applicant began meeting on an informal basis with adjacent residents, referred to as the Promote Georgia Avenue Coalition (PGA). The PGA consists of the following member organizations: Concerned Neighbors, Plan Takoma, Neighbors, Inc., Shepherd Park Citizens Association, and Upper Georgia Avenue Planning Committee. These discussions with PGA culminated in a signed 17-point agreement between the applicant and PGA.
23. The applicant outlined the provisions of the Agreement

with PGA which includes the following conditions:

- a. C-2-A zoning with a height limit of 65 feet;
- b. No trash collections outside the hours of 7 a.m. - 6 p.m. and none on Sundays;
- c. One parking space for the exclusive use of the tenant is included in the rental fee and not as an option for apartment dwellers;
- d. During construction -
 - (1) no heavy equipment to cause off-site noise prior to 7 a.m. and after 8 p.m.;
 - (2) truck access to and egress from construction site limited to Eastern and Georgia Avenues; and
 - (3) dual wheels of trucks must be washed on exit from construction site.
- e. Concerning traffic needs--
 - (1) establish an escrow account of \$50,000 to be established at the commencement of construction for traffic/parking needs to be mutually determined and agreed upon by PGA, the applicant and DPW, and completed one year after completion of the project.
 - (2) study the impact of traffic east of Georgia Avenue (Blair Road) and Kalmia Road (including west of 16th Street).
- f. Existing brick wall (to a minimum height of 8 feet -- measured on the site side), at the rear of the houses along the north side of the 1100 block of Kalmia Road, to act as a buffer between the single family residences and site. The wall is to be maintained by the applicant;
- g. Off-street parking will be provided, at no cost, to the five existing residents on the north side of the 1100 block of Kalmia Road. The rights to use said space shall be transferable with the property on the condition that said space be used by the resident or its guests, but not sublet to others;
- h. Allow free parking for a limited time for patrons of commercial establishments;

- i. All houses on immediate blocks to be rodent-proofed before and during construction on the site;
 - j. Applicant to purchase liability coverage in the minimum amount of \$10 million for damage to existing structures, property, and trees during construction;
 - k. Applicant to provide ongoing shuttle bus service to Metrorail station and grocery store(s) for apartment residents; this service is to encourage rentals to individuals who do not have cars;
 - l. Reserve 10 percent of the apartments in the complex for rental by elderly and/or low income (as defined by the D.C. Government) residents;
 - m. Agreement to provide that number of parking spaces as required by the C-2-A Zoning Regulations which is approximately 400 spaces. However, PGA has reserved the right to raise concerns about the number of parking spaces to be provided;
 - n. Limit of three (3) ABC-licensed establishments in the commercial area, with no night clubs as defined by the new ABC law;
 - o. Control exits from site onto Eastern Avenue (underground land/surface lane);
 - p. Permit no fast-food establishments as lessees;
 - q. Prior to March 17, 1988, the applicant agrees to submit a formal request to the District of Columbia Department of Public Works for its support of the community's desires for the following traffic actions:
 - (1) make alley between Eastern Avenue and Kalmia Road one-way in a southerly direction;
 - (2) dead end and landscape 12th Street at Eastern Avenue; and
 - (3) by use of traffic signals, encourage the use of Eastern, Georgia, and Alaska Avenues and discourage the use of 12th, 13th, and Kalmia Road.
24. In addition, the applicant is willing to underwrite the landscaping at the end of 12th Street for at least six (6) trees (of a type to be decided on) and shrubbery, if DPW requests private party payment for landscaping.

The applicant testified at the hearing that a letter, dated March 17, 1988, had been prepared and filed with DPW agreeing to this condition. This letter was submitted to the Zoning Commission for the record in this case.

25. The applicant testified that it is committed to seeking neighborhood service-oriented retail establishments as tenants in the building and working with the community towards this goal.
26. The applicant stated that the second building is to be the second phase of the project. The applicant requests the flexibility to commence construction of the second building within three years of the time of the issuance of the certificate of occupancy for the main building. The applicant reserves the right to commence construction of the smaller building at an earlier date should market conditions so permit.
27. The applicant's financing expert testified that there is presently a favorable interest rate environment at this time and a strong availability of funds for mixed use properties such as the proposed PUD.
28. The applicant's architect described the site, its existing conditions, architectural constraints and context. He described the current proposal as five (5) stories of residential use on top of two stories of retail/office in the main building. The building terraces down to 47 feet on the portions facing the residential areas. The small building is comprised of five stories of apartment above one story of retail. The architect described the interior layout of the two buildings and described the below grade parking garages. The architect described the landscaping plan and noted that the maximum possible number of street trees along Eastern and Georgia Avenue are being planted.
29. The architect testified that, if the roof deck and all terraces and balconies are included, the project exceeds the 20 percent residential recreation requirements, and that sight lines from Eastern Avenue and from Kalmia Road indicate that the difference between 65 and 69 feet for the main building is virtually imperceptible.
30. The applicant, by letter dated May 27, 1988, has re-evaluated the height of the roof structure in order to reduce the overall height of the building. The applicant has determined that a roof structure of 16 feet is feasible.

31. The Office of Planning, by report dated May 16, 1988, has reviewed the applicant's roof structure and found it reasonable.
32. The architect testified that certain areas of flexibility for minor refinements and improvements are necessary. The applicant's revised request for areas of flexibility are as follows:
 - a. Varying the locations and design of all interior residential, retail and office components, including partitions, structural slab, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, and size and location of roof decks, so long as the variations do not change the exterior configuration of the building, including the penthouse;
 - b. Varying the design and arrangement of components within the enclosure of the penthouse, and permitting mechanical louvers where necessary on the exterior wall;
 - c. Making minor refinements to exterior details which include lintels, sills, pilasters and trim;
 - d. Varying the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at time of construction;
 - e. Making minor refinements to final quantity and size of windows, emergency egress doors and ventilation grills in order to coordinate with the newly adopted D.C. Building Code; and
 - f. To facilitate changes in the retail and office leasing arrangements, flexibility in the location of store front entry doors and the location of terrace and balcony access doors will be necessary.
33. The applicant's expert land planner testified that the Gateway mixed use project will lend stability to the area, will benefit the District of Columbia by providing needed housing and serve as a major catalyst in revitalizing Upper Georgia Avenue; and that the site is appropriate for development under the planned unit development (PUD).
34. The land planner testified that a height of 65 feet for the main building imposes urban design and practical constraints on the building. As testified by the land

planner, reducing the height of the main building to a height of 65 feet has high urban design costs.

35. The land planner testified that a height increase to 69 feet would resolve these problems. From a sight line analysis, the land planner testified that the additional four feet of height would not be noticed, but would significantly add to the design statement from the street level.
36. The applicant's expert traffic consultant testified that the project includes 403 parking spaces, that the project has adequate parking to meet demand, and that there are an adequate number of spaces to meet the requirements of the Zoning Regulations.
37. The traffic consultant also testified that the applicant has reached a number of agreements with the community, in terms of parking and traffic issues. Importantly, the applicant will establish an escrow account of \$50,000 for traffic/parking needs to be mutually determined by PGA, DPW and the applicant. The traffic consultant testified that the loading facilities meet the requirements of the Zoning Regulations.
38. The traffic consultant discussed DPW's proposal to widen Georgia Avenue adjacent to the proposed PUD. The applicant has agreed that to accommodate the widening of Georgia Avenue, and is amenable to the imposition of a condition that the applicant, in conjunction with DPW, finalize the plans for the widening and begin its implementation.
39. The District of Columbia Office of Planning (OP), by report dated March 22, 1988, and by testimony presented at the public hearing, recommended that the application be approved. OP believes that the project has a strong residential component, with 1.9 FAR residential and 1.05 FAR commercial, and is of a superior nature.
40. OP, in its report, stated the following:

"The proposed development would be located at the boundary line of the District of Columbia at Georgia Avenue where a number of efforts have been made for residential and commercial revitalization in the past. The site is located strategically at a "gateway" location where a prominent development is needed. The project responds to the need for housing and economic development in the District. The project in question has been modified twice to reduce its bulk, to harmonize its character with that of the community, and to minimize its impact

on the surrounding area. The community organizations have identified a number of issues in this case and have negotiated an understanding after a great deal of discussion. The Office of Planning acknowledges the efforts of the community and the developers in this case.

The proposed development is scaled down to a level at which it does not exceed the PUD guidelines for a C-2-A District, so that a map change to C-2-B is no longer needed.

The Office of Planning recommends that this application be approved with conditions that reflect the agreement between the community organizations and the applicant, subject to a resolution of issues regarding parking and traffic in light of the report from the department of Public Works."

41. The District of Columbia Department of Public Works (DPW), by report dated March 18, 1988, and by testimony presented at the hearing, noted that they have reviewed the proposal and determined that a total of 484 parking spaces should be provide, in lieu of 400. DPW reviewed the loading facilities and determined that adequate loading facilities are provided, recommended that 16 bicycle parking spaces be provided as required by the Zoning Regulations, and that adequate water and sewer utilities are available to service the project, and testified that it will work with the community and the applicant on the traffic mitigation study to minimize potential negative impacts on residential streets.
42. The District of Columbia Department of Recreation (DOR), by report dated March 8, 1988, noted that the project had many positive features, since it directly supports various elements in the Comprehensive Plan, e.g., the housing element. DOR expressed concerns about the provision of usable open space, play areas for young children, and outdoor seating areas for adults.
43. DOR, in that same report, stated the following:

"In our opinion, one of the important objectives of a Planned Unit Development is to encourage innovative site design on difficult to develop parcels. An applicant's request for density increases must be coupled with a full array of amenities in return for that increased density consideration."

"Although presently there are no guidelines or

standards¹ for the provision of open space for PUD proposals in the District of Columbia, we would entertain discussions with the applicant to assist in resolving this deficit in the proposal. In future cases, the Department suggests that informal discussions to resolve site plan and other matters be initiated by all applicants prior to the Zoning Commission consideration. In the meantime, it is recommended that a second opportunity be provided to this agency's staff to review a revised site plan prior to final Zoning Commission approval."

44. DOR, by supplemental report dated April 18, 1988, indicated that it reviewed more detailed plans, and have been assured that landscaping and recreation space will be provided on top of the two-story sections and on the roof of the building.
45. The District of Columbia Public Schools (DCPS), by report dated March 21, 1988, noted that this proposal, if it includes a large number of affordable family units, could have a significant impact upon the public schools in this neighborhood which may necessitate boundary adjustments or the need for additional capacity.
46. The District of Columbia Metropolitan Police Department (MPD), by report dated April 4, 1988, stated that it is not opposed to the project. The Police Department requested that the applicant include effecting lighting in open areas to provide a level of real and perceived safety.
47. The District of Columbia Fire Department (DCFD), by memorandum dated February 12, 1988, indicated that the DCFD has no objections to the development of this project provided that the developer complies with high rise fire protection provisions of the new D.C. Construction Codes, as listed in the D.C. Law 2-216.
48. The District of Columbia Department of Housing and Community Development (DHCD), by memorandum dated March 15, 1988, welcomed the additional 228 residential units but raised concerns regarding density, increased traffic congestion, and possible neighborhood opposition.
49. The Advisory Neighborhood Commission (ANC) 4A, by report dated March 18, 1988, requested that the application be denied. The ANC's report noted:
 - a. That the neighborhood was not opposed to

development of the site, but wanted development to take place under current regulations because of the expected impact by the additional people on the existing infrastructure of the neighborhood; e.g., streets, sewage, schools, pollution, traffic congestion, fire, police, solid waste disposal, auto emissions, etc.;

- b. That the market-rate residential housing proposed by the project is not defensible given the District's need for low and moderate income housing;
 - c. That the project overwhelms the neighborhood "skyline", and will significantly alter the architectural composition of the existing dwellings in the neighborhood; and
 - d. That the project would affect the lives of the residents in the neighborhood with increased people, cars, traffic, trash, crime and other negative environmental impacts.
50. The Promote Georgia Avenue Coalition (PGA), a party in the proceeding, by written submission and by testimony presented at the public hearing, conditionally supported the application and commented as follows:
- a. The proposed development of 170 residential units is supported, but a maximum density cap associated with the present C-2-A zoning should be implemented;
 - b. The C-2-A PUD is supported because the PUD process facilitates development of the irregularly shaped lots which individually are difficult to develop, provides the flexibility to achieve a mixed use project with maximum community and government control, and provides up front citizen review;
 - c. The proposed development's reduced height of 65 feet and the FAR of 2.95 are acceptable;
 - d. The reduction of height of the main building from 89 feet to 65 feet ensures that the building would not intrude upon the neighborhood skyline, cause shadowing, or encourage the development of similarly sized projects;
 - e. The proposed development's height and terrace design decreases the visual impact of the main building as viewed from Alaska Avenue;
 - f. The proposed project is significant in encouraging

the revitalization of upper Georgia Avenue, and will provide a multi-use neighborhood center and focal point;

- g. While the project will have some impact on the neighborhood in terms of increased congestion, traffic and parking, it will contribute positively in respect to increased housing and jobs;
 - h. The proposed development is in accordance with the Ward 4 Economic Revitalization Plan which encouraged (1) more efficient utilization of available space and residential uses to occupy upper levels of buildings, (2) retail uses at the street level and compatible mixed-use development wherever feasible, and (3) new development in areas where rehabilitation is not probable or feasible; and
 - i. The proposed project preserves the integrity of the community.
51. PGA expressed concerns regarding the applicant's traffic and parking analysis, and the neighborhood traffic management plan, and made some suggestions to the applicant regarding an escrow account for a post-construction traffic study, a shuttle bus service, controls during construction, exit controls, alley to west of site to becoming one-way, dead-end and landscape 12th Street at Eastern Avenue, and improvement of the traffic signalization for Georgia, Eastern and Alaska Avenues.
52. PGA testified that parking for the proposed development must be contained within the project and have a minimal impact on the neighborhood. Sufficient parking spaces must be built and the developer and property manager must take action to encourage use of those spaces and of public transportation by residents, employees, and shoppers. PGA stated that the total parking spaces needed is 489 (484 for project plus 5 for adjacent residents). One exclusive space per apartment or 170 spaces is adequate for residential parking.
53. By letter dated June 2, 1988, PGA reiterated its support for the proposed PUD. PGA noted, that it comprised of five member organizations: (a) Concerned Neighbors which represents 50 families in the area bounded by Eastern Avenue, Fern Place, Georgia Avenue and Blair Road; (b) Plan Takoma with 100 member families in the Takoma D.C. neighborhood; (c) Neighbors, Inc. with over 500 members in Upper Ward 4; (d) Shepherd Park Citizens Association with over 400

- members in Shepherd Park, North Portal Estates and Colonial Village; and (e) Upper Georgia Avenue Planning Committee with a permanent committee of 12 serving the area bounded by Eastern Avenue, Fern Street, Rock Creek Park and Blair Road.
54. Through PGA's work with the applicant, an agreement has been reached to support the the project with 17 important conditions. The agreement represents compromise by both the community groups represented by PGA and the applicant. PGA urged that these conditions be made an express part of the Commission's Order.
 55. One area resident testified at the public hearing in support, subject to a concern regarding the construction and maintenance of a brick wall between her property and the PUD site. There was one letter in support.
 56. Four area residents testified at the public hearing in opposition, approximately twenty-five (25) letters were received in opposition, and several petitions were received and signed by area residents and others in opposition totalling more than 700 names.
 57. The only issue raised by persons in opposition that had not been previously raised was in regards to the applicability of the draft Ward 4 Plan to the proposed PUD and rezoning request. An issue was raised that a draft of the Ward 4 Plan contained a map indicating proposed changes to the Generalized Land Use Map of the Comprehensive Plan which would change the classification of the area from mixed use moderate density commercial and residential development to mixed use moderate density residential and low density commercial development.
 58. The Commission finds that the development of the site as a PUD is appropriate and should so be done because the PUD offers many benefits and amenities to the District of Columbia that would not be realized through matter-of-right development.
 59. The Commission concurs with the position of the OP, DOR (as revised), DCPS, MPD, DCFD and DHCD, and PGA, and believes that, in its decision, has addressed all outstanding concerns and/or struck a balance that would reflect an appropriate and reasonable resolution.
 60. The Commissson does not concur with ANC 4A and other persons in opposition that the site should be developed as a matter-of-right project. The Commission finds that the site is not amenable to needed revitalization

under a matter-of-right scheme and that the PUD process offers significant public benefits.

61. As to the concerns of ANC-4A, DPW and others, the Commission finds that it again has addressed traffic, parking, and vehicular circulation concerns in a reasonable, responsible and appropriate manner, in its decision. The Commission further finds that traffic impacts resulting from the development of the project can be most appropriately addressed by the post-construction traffic mitigation study which is incorporated as a condition to this Order.
62. As to the concerns of ANC 4A and others regarding the rezoning of the R-1-B buffer zone to C-2-A as part of the PUD process, the Commission concurs with the applicant that the rezoning is necessary to effectuate the residential component of the PUD. The Commission notes that under the PUD the R-1-B area will continue to be used for surface parking as it has been used under BZA approval since 1949.
63. The Commission finds that the PUD is consistent with the Comprehensive Plan's designation of the area as a multi-neighborhood center, new or updated, for mixed use moderate density commercial and residential development. The Commission finds that the mixed use project is appropriate for the site and is not inconsistent with the Comprehensive Plan.
64. The Commission supports the large residential component of the project and finds that other elements of the Comprehensive Plan, notably the Housing Element, indicate a strong policy objective toward increasing housing opportunities in appropriate locations.
65. As to the concern about the Comprehensive Plan's classification of the area for mixed use moderate density commercial and residential development, the Commission notes the supplemental report of the OP, dated May 19, 1988, which states that the Ward 4 Plan is definitive in its designation of the subject site as appropriate for moderate density residential and moderate density commercial uses. According to the OP report, the draft Ward 4 Plan recommendations have taken into consideration the site's prominent gateway location, the surrounding land uses and zoning patterns in the neighborhood. The site's proposed moderate density development potential is further strengthened by its being classified as a multi-neighborhood center on the Generalized Commercial and Production and Technical Employment (PTE) Land Use Policies Map of the Comprehensive Plan.

66. As to the concerns of ANC 4A and other persons concerning the height of the PUD, the Commission finds that the project's height is consistent with the surrounding commercial and residential uses, including the 60 foot height of the Terra Nova Building. The Commission finds tht the applicant's design to terrace the main building down toward the residential areas to the west of the project is a significant feature. The Commission further finds that the height is particularly appropriate given the site's location as a gateway to the District of Columbia on Georgia Avenue, which is designated by the Comprehensive Plan as a special street.
67. As to the concerns of PGA regarding the 69 foot height of the main building, the Commission finds that the 4 foot increase in height from 65 feet will significantly contribute to the project's overall design, particularly at the street level, and the efficient functioning of the retail component. The Commission believes that the height increase to 69 feet is not a significant or perceptible intrusion on the surrounding area. In this connection, the Commission notes with approval the applicant's decision to reduce the height of the roof structure from 18 feet, 6 inches to 16 feet to further minimize any negative impacts created by the increase in height of the building to 69 feet.
68. As to the concerns of ANC 4A and other persons regarding the density of the development, the Commission finds that the proposed development is compatible with the surrounding area and is consistent with the PUD guidelines and the Comprehensive Plan.
69. As to the concerns of PGA about the number of parking spaces and setting aside spaces for residential parking, the Commission finds that the parking spaces provided in conjunction with professional management of the parking garage through stacked and shared parking are adequate to meet the demands of the project. The Commission believes that parking spaces should not be set aside solely for residential use, but that all spaces should be shared. The Commission further finds that through shared parking a mechanism is available for ensuring that the spaces are used effectively and that the residential tenants will always have an exclusive right to a parking space.
70. As to the concern regarding the construction and maintenance of a brick wall at the PUD site and neighboring properties, the Commission believes that it has adequately addressed the matter in its decision.

Z.C. ORDER NO. 584
CASE NO. 87-37C
PAGE 19

71. As to any concerns that were not previously addressed, the Commission finds that it has carefully considered all of the issues that are relevant and germane to the proposal and, in its decision, has addressed or not concurred with parties or persons for reasons related to inappropriateness, not being persuaded to do otherwise or being outside the jurisdiction of the Zoning Commission to decide.
72. The Commission finds that the rezoning of Lots 8-12, 812 and 813, portions of Lots 809-811 and a portion of Parcel 91/169 in Square 2960 from R-1-B to C-2-A in association with the instant PUD proposal is appropriate.
73. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated August 2, 1988, indicated that the PUD and related map amendment would not adversely affect the Federal establishment or other Federal interests in the National Capital or be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned residential, institutional, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.
5. The approval of this application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with

conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.

DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL for a Planned Unit Development for lots 8-13, 809-813 and 816, and parcels no. 91/159, 91/160, 91/169, 91/171, 91/172 and 91/173 in Square 2960 @ Georgia, Eastern and Alaska Avenues, N.W. This PUD approval is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development ("PUD") shall be developed in accordance with the plans prepared by Leo A. Daly Associates, architects, identified as "alternative scheme dated 3-21-88" and marked as Exhibit No. 71 of the record, as modified by the guidelines, conditions and standards of this order.
2. The PUD project shall be developed as a mixed-use project consisting of a residential component, a general office component, and a retail component. The project shall have a maximum of 170 residential units. The applicant shall have the flexibility to reduce the number of apartment units by no more than 10 percent (to a minimum of 153 units) to meet market needs.
3. The floor area ratio ("FAR") of the project shall not exceed 2.95.
4. The height of the main building along Georgia Avenue shall not exceed sixty-nine (69) feet. The height of the smaller building shall not exceed sixty (60) feet.
5. The residential lot occupancy of the project shall not exceed thirty-nine (39) percent.
6. The applicant shall provide a minimum of 403 parking spaces, in conformance with the C-2-A zoning, regulations. The applicant shall implement the stacked and shared parking program as detailed in sub-exhibits A and B of Exhibit No. 74 of the record. Through the stacked parking program, parking for a minimum of 452 cars shall be provided.
7. The parking garage shall be properly managed to insure the effective functioning of the shared and stacked parking scheme and to further insure that convenient parking spaces are always readily available to residents of the project.

8. Before applying for a building permit, the applicant, in conjunction with DPW, shall cause the implementation of the plans for the roadway improvement widening of Georgia Avenue in a manner that is not inconsistent with DPW's schematic drawing marked as Exhibit No. 109 of the record.
9. During construction of the project, the applicant shall insure that:
 - a. no heavy equipment to cause off-site noise is permitted on-site prior to 7:00 a.m. and/or after 8:00 p.m.;
 - b. truck access to and egress from the construction site is limited to Eastern and Georgia Avenues; and
 - c. dual wheels of trucks must be washed on exit from construction site.
10. At the commencement of construction, the applicant is to establish an escrow account of \$50,000 to study and assess traffic and parking needs to be mutually determined and agreed upon by the applicant, PGA and DPW. The study shall be related to the project. The scope of the study and resultant implementation action are to be completed one year thereafter in order to achieve the objectives of the study. As part of the study, the impact of the project on traffic east of Georgia Avenue (Blair Road) and Kalmia Road (including west of 16th Street) should be analyzed.
11. The applicant shall prohibit left hand turns onto Eastern Avenue from the project if requested by DPW and PGA, or as a result of the post-construction traffic study, pursuant to Condition No. 10, above.
12. The applicant shall provide off-street parking, at no cost, to the five existing residents on the north side of the 1100 block of Kalmia Road. The rights to use said space shall be transferable with the property on the express condition that said space be used by the resident(s) or their guests, but not sublet to others.
13. The applicant shall provide free parking for a two-hour period for patrons of commercial establishments in the parking facility.
14. The applicant shall provide a daily regularly scheduled shuttle bus service to an adjacent Metro rail station and nearby grocery store(s) for apartment residents.
15. The applicant shall work with DPW and PGA to obtain

DPW's support for the following traffic actions:

- a. make alley between Eastern Avenue and Kalmia Road one-way in a southerly direction;
 - b. dead end and landscape 12th Street at Eastern Avenue; and
 - c. by use of traffic signals, encourage the use of Eastern, Georgia, and Alaska Avenues and discourage the use of 12th and 13th Streets, and Kalmia Road.
16. In conjunction with Condition No. 15, the applicant shall underwrite the landscaping at the end of 12th Street for at least six (6) trees for a type to be decided on by the applicant, DPW and PGA, and shrubbery, if DPW requests private party payment for landscaping.
 17. Loading activity for the PUD site shall be in accordance with the plan filed in the record of the case and marked as Exhibit No. 71. There shall be no loading activity, including arrivals, departures, or maneuverings, at the PUD loading facility from 7:00 a.m. to 9:00 a.m. or from 4:30 p.m. to 6:00 p.m.
 18. The applicant shall guarantee the right of use of a parking space for each of the residential tenants of the PUD project, as part of the rental fee of the applicant.
 19. The applicant shall permit trash collections only between the hours of 7:00 a.m. - 6:00 p.m. No trash collection shall be permitted on Sundays.
 20. The applicant shall retain the existing brick wall (to a minimum height of 8 feet as measured from the PUD site) to act as a buffer between single-family residences and the PUD. The applicant shall maintain the wall.
 21. The applicant is to construct, in cooperation with the owner of 1121 Kalmia Road, and maintain as part of the PUD, a wall similar to the existing wall located at the rear of the houses along the 1100 block of Kalmia Road as provided in Condition No. 20, on the east side of the property at 1121 Kalmia Road. Such wall shall be constructed in the location substantially similar to that illustrated on a diagram in the record as part of Exhibit No. 48.
 22. The applicant shall rodent-proof, with the permission

of the property owner, before and during construction on the site, all houses within the immediately blocks of the PUD site.

23. The applicant shall purchase liability coverage in the minimum amount of \$10 million for damage to existing structures, property, and trees during construction of the PUD project.
24. The applicant shall reserve ten (10) percent of the apartments in the complex for rental by elderly and/or low income (as defined by the D.C. Government) residents.
25. The applicant shall be limited to no more than three (3) ABC-licensed establishments in the commercial component, with no nightclubs, as defined by the new ABC law, Section 25-101, D.C. Code, as amended.
26. No fast-food establishments shall be permitted as lessees on the PUD site.
27. The applicant shall control exits from the site onto Eastern Avenue.
28. The project shall include the amenities package proposed as part of this application and described in detail in the findings and record of this case as follows:
 - a. The provision of a significant amount of new rental housing. This commitment to provide housing will address the City's interest in preventing the erosion of the housing stock;
 - b. Stabilization of the Georgia Avenue corridor through provision of an upgraded multi-neighborhood mixed use project at an important gateway location, as called for by the Comprehensive Plan;
 - c. A transportation management plan, involving a coordinated strategy to reduce the traffic impact of the project on the neighborhood streets and the encouragement of mass transportation;
 - d. A commitment to seek service-oriented retail establishments as tenants in the building and work with these businesses to locate in the new building. The applicant has been and will continue to meet and work with area citizens;
 - e. Development of a project of superior design that

will include a significant residential, retail, and office component and provide an appropriate identity for this specific geographic corner which is a Gateway to the District, while being sympathetic to the adjacent commercial and residential areas;

- f. Improvements to public space surrounding the buildings; and
 - g. Economic benefits to the City and to city residents through:
 - (1) Increased real estate tax revenues;
 - (2) Commitment to jobs for minorities in the construction of the project through the Minority Business Opportunities Commission;
 - (3) Increased patronage of surrounding neighborhood shops and businesses; and
 - (4) First source employment for construction jobs.
29. The facade design treatment and materials of the proposed building shall be generally consistent with the plans marked as part of Exhibit No. 71 in the record of the case, consistent with the areas of flexibility requested by the applicant and marked as Exhibit No. 82. The building materials are as follows:
- a. Face brick
 - Extruded Units
 - Basic Brick: Glen Gery/Hanley S37FB
 - Accent Brick: Glen Gery/Hanley W77FB
 - b. Residential window mullions
 - Factory Painted Aluminum
 - Color: Pella #11B124 Blue
 - c. Residential windows
 - Clear Plate Glass
 - d. Retail window mullions
 - Factory Painted Aluminum
 - Color: Pella #11B133
 - Blue-Grey
 - e. Retail windows
 - Clear Tempered Glass
 - f. Retail sign band
 - Factory Painted Aluminum
 - Color: Pella #11T622
 - Beige

| | |
|---------------------|--|
| g. Roof deck pavers | 24" x 24" Precast Concrete Units Color: Beige Concrete Matrix, Grey, White and Blue Aggregate Hastings "London Walks" #19 |
|---------------------|--|

The final selection of exterior and interior materials shall be within the color ranges as proposed based on availability at time of construction.

30. The applicant may vary the location and design of all interior components of the building including additional or reconfigured position of elevators or escalators, as necessary to comply with all applicable codes or as required to obtain a final building permit.
31. No certificate of occupancy shall be issued for any portion of the main building until a certificate of occupancy is issued for the smaller building in its entirety.
32. The applicant shall be bound to perform to the terms of the agreement with PGA, except as superceded by the conditions of this order.
33. No antennas shall be permitted, except as confined to the penthouse enclosure.
34. The design of the roof-top recreational space shall be as shown on sub-exhibit D of Exhibit No. 99 of the record.
35. Vehicular ingress and egress movement for the smaller building shall be clear and unobstructed before the main building is used for any purpose.
36. The change of zoning for the PUD site from R-1-B to C-2-A shall be effective upon recordation of a covenant as required by Subsection 2406.12 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.
37. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, the application must be filed for a building permit, as specified in 11 DCMR 2406.8. Construction shall start within 3 years of the effective date of this order, pursuant to 11 DCMR 2406.9.
38. No building permit shall be issued for this PUD until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the

Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order, or amendments thereto of the Zoning Commission .

39. The Zoning Secretariat shall not release the record of Case No. 87-37C to the Zoning Regulations Division until the applicant has filed a certified copy of the covenant with the records of the Zoning Commission.


Vote of the Zoning Commission taken at the public meeting on June 13, 1988: 3-0 (John G. Parsons, Elliott Carroll and Lindsley William, to approve with conditions - Maybelle Taylor Bennett, not present not voting and Patricia N. Mathews, not present, not voting having recused herself).


The guideline, conditions and standards were approved by the Zoning Commission at its public meeting on July 11, 1988 by concurrence.

This order was adopted by the Zoning Commission at its public meeting on August 8, 1988 by a vote of 4-0 (Elliott Carroll, Lindsley Williams, and Maybelle Taylor Bennett to adopt as amended and John G. Parsons, to adopt by absentee vote - Patricia N. Mathews, not present not voting having ~~recused~~ recused herself).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on

14 OCT 1988


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat